CHONG SONG TAN

v.

THE SUPERINTENDENT OF LANDS AND SURVEYS MIRI

HIGH COURT SABAH & SARAWAK, MIRI
SULAIMAN DAUD J
[LAND REFERENCES NOS: 15-01-1999 & 15-02-1999 (BTU)]
26 JULY 2002

LAND LAW: *Acquisition of land - Compensation - Adequacy of award - Market value of land - Material date for assessment of market value - Whether as at s. 47 notice or s. 48 declaration - Valuation by sales comparable - Whether suitable lots used for comparable - Claim for removal of earth - Whether misconceived - Damages for severance - Whether proved - Whether compensation adequate - Sarawak Land Code (Cap. 81), ss. 47, 48, 51, 56, 60(1), 61*

This was a consolidated reference under s. 56 of the Sarawak Land Code ('the Land Code') seeking the court's determination on the adequacy or otherwise of an award of compensation made by the respondent in respect of land acquisition exercise carried out by the latter. Before the learned judge, the objectors inter alia argued: (i) that the material date for assessing the market value of the subject land was the date of declaration under s. 48 of the Land Code ('section 48 declaration'), and not the date of notice under s. 47 ('s. 47 notice') as applied by the government valuer; (ii) that upon a proper valuation, the market value of the subject land was RM140 per sq metre and RM150 per sq metre respectively, and not RM40 per sq metre as awarded; (iii) that they were entitled to an additional award of RM144,062.23 being the value of the earth to be removed from the subject land; and (iv) that they were also entitled to compensation for severance, for which no award had been made by the respondent. The primary issues that arose were whether the objectors were right in taking the section 48 declaration as the material date for assessing market value, and secondly, whether the award of RM40 per sq metre awarded to the objectors herein represented adequate compensation for the resumption of their land.

Held:

[1] The material date for determining the market value of the land is the date of the section 47 notice, and not the section 48 declaration. The onus is on the objectors to satisfy the court that the compensation awarded is inadequate. (pp 187 g-h)

[2] The objectors' comparable cannot be accepted for the purpose of determining the market value of the subject land. The objectors had erred in law in taking the date of the section 48 declaration as the material date. The wrong date taken means that the nine lots that were used as comparable relate to sales that were taking place some 12 years after the date of the section 47 notice, the material date. The time factor apart, the comparable ought also to be rejected as some of the lots were adjacent to residential area and were first layer lots, which were quite unlike the subject land which were not located in the vicinity of any residential area, not first layer lots and not having access road. (pp 189 h & 190 a-c)

[3] Upon consideration of the lots used as comparable by the government valuer, and the opinion of the assessors, the market value of the land at the material time is only RM20 per sq metre at the most. Thus, the award made by the respondent at RM40 per sq metre, based on the market value as at 14 May 1998, as recommended by the government valuer, is well above the fair market value thereof at the material time. (p 191 a-b)

[4] The claim in respect of the value of the earth is misconceived. The earth in question constitutes and forms part of the land. Further, the value of the earth as claimed are not matters to be considered for the purpose of s. 60(1) of the Land Code. (p 192 a)

[5] The objectors have not explained on the damages that allegedly resulted from the severance of the subject land. As to the contention that they have intended to develop the land, the court is clearly prevented by s. 60(2) from taking such factor into account. Considering all factors, including the remaining portion and the condition imposed on the subject land, the objectors have not adduced sufficient evidence to support their claim for severance. The compensation awarded by the respondent must therefore be upheld. (pp 192 g-h & 193 a-b)

[Objections dismissed.]

Case(s) referred to:

Assistant Developer Officer, Bombay v. Tayaballi Alliboy Bohori AIR [1933] Bomb 361 (refd)

Chuah Say Hai & Ors v. Collector of Land Revenue, Kuala Lumpur [1967] 2 MLJ 99 ***(refd)***

Collector of Land Revenue v. Allagappa Chettiar, Collector of Land Revenue v. Ong Thye Eng [1971] 1 MLJ 43 ***(foll)***

Nanyang Manufacturing Co v. Collector of Land Revenue, Johore [1954] MLJ 69 ***(refd)***

Ng Tiou Hong v. Collector of Land Revenue, Gombak [1984] 2 MLJ 35 ***(refd)***

Ngu Toh Tung & Ors v. Superintendent of Lands and Surveys & Anor [2000] 4 MLJ 552 ***(foll)***

Superintendent of Lands and Surveys, Fifth Division, Limbang v. Lim Teck Hoo & Anor [1980] 1 MLJ 58 ***(refd)***

Superintendent of Lands and Surveys, Sarawak v. Aik Hoe & Co Ltd [1966] 1 MLJ 243 ***(foll)***

Legislation referred to:

Land Code (Cap 81) (Sarawak), ss. 47, 48, 49, 51, 56, 60(1), (2)(c), 61

Other source(s) referred to:

Halsbury's Laws of England, 4th edn, vol 8, para 320

For the assessors - Richard Pahang (David Sambang)
For the objectors - Tai Choi Yu; M/s Tai Choi Yu & Co
For the respondent - Zainuddin Hussaini; State Attorney General's Chambers

Reported by WA Sharif

JUDGMENT

Sulaiman Daud J:

This is a consolidated reference to the High Court by the Superintendent of Lands and Surveys, Miri under s. 56 of the Land Code of Sarawak (Cap 81) ("the Land Code") which arose from the resumption of two lots of adjacent land of which the objectors were co-proprietor. The particulars of the lands acquired and the award of compensation under each of the reference are set out as follows:

Ref. No	Description of land	Area acquired	Compensation awarded	
15-01-99	Lot 1459	2,060 sq. m.*	at RM40.00 p.s.m*	= RM82,400.00
			Cultivation	= RM 630.00
			Total	= RM83,030.00
15-02-99	Lot 1450	4,950 sq. m.	at RM40.00 p.s.m	= RM198,000.00
			Cultivation	= RM 709.50
			Total	= RM198,709.50

* sq. m. means square metre

* p.s.m. means per square metre

Lot 1459 and Lot 1450 are two adjacent lots situated in Lambir Land District, Miri ("the subject lands"). Lot 1459 is almost rectangular in shape with an area of 8,741 square metres of which an area of 2060 square metres was

resumed. It is a second lot from Jalan Riam with a small frontage onto a road reserve to the west. Lot 1450 is a third layer lot without any access road. Both the said lands are subject to the express condition that they are to be used only for agricultural purposes.

A notice under s. 47 of the Land Code published in the State Gazette on 15 May 1986 ("the s. 47 notice") indicated that all those areas of land situated between Padang Kerbau and Riam Road and particularly delineated on the Lands and Surveys Department Plan Print No. 4D/13/66173 attached thereto were "likely to be needed for the construction of road and urban development". It is not disputed that the subject lands are located within the specified area.

A declaration under s. 48 of the Land Code of the intended resumption of the subject lands was later published in the State Gazette on 26 March 1998 ("the s. 48 declaration"). The notice under s. 49 having been served, the Superintendent held an inquiry under s. 51 of the Land Code on 23 September 1998 in the presence of both the second objector and the Government valuer. At the inquiry the Superintendent accepted the valuation of the Government valuer and made the award of compensation as set out above.

By an order of this court dated 6 December 2000, the objectors were given leave to raise further objections which were not raised at the inquiry before the Superintendent, that is to say:

(1) objection on the measurement of the land acquired in linear and volumetric terms and on vegetation;

(2) objection on the amount of compensation affected by:

(i) injurious affection affecting the applicant's other movable and immovable properties and/or the applicant's actual earning;

(ii) increase in value likely to accrue from the use of the land;

(iii) damages due to severance of the acquired portion;

(iv) compulsion to change of residence or place of business.

At this stage I pause to remark that notwithstanding such leave the new objections raised will only be considered and given due consideration if the same fall within the scope s. 60(1) and are not matters to be disregarded under s. 61 of the Land Code. In view of the numerous objections I find it necessary for ease of reference to reproduce the said s. 60(1) which provides as follows:

60(1) In determining the amount of compensation to be awarded for land resumed under this Part, the Court shall take into account the following consideration and no others:

(a) the market value at the date of the publication of the notification under section 47 or, if no such notification has been published, the market value at the date of the posting of the declaration under section 48;

(b) any increase in the value of the other land of the person interested likely to accrue from the use to which the land resumed will be put;

(c) any damages, if any, sustained by the person interested, at the time of the Superintendent's taking possession of the land, by reason of severing such land from his other land;

(d) the damages, if any, sustained by the person interested, at the time of the Superintendent's taking possession of the land, by reason of the resumption injuriously affecting his other property, whether movable or immovable, in any other manner or his actual earning;

(e) if the consequence of the resumption he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change; and

(f) any improvements to the land made with the prior consent of the Superintendent after the publication of the notification under section 47(1) or the posting of the declaration under section 48(2), whichever is the date in respect of which the market value is taken in accordance with the provisions of paragraph (a).

Subsection (2)(c) of s. 60, in so far as relevant, further provides that for the purpose of determining the market value of the land no account shall be taken of any potential value of the land for any other or more intensive use. Among the factors to be disregarded under the said s. 61 in determining the compensation include the degree of urgency which led to the resumption, any disinclination of the person interested to part with the land resumed, and any increase in the value of the land resumed likely to accrue from the use to which it will be put when resumed.

Having stated the relevant provisions of the Land Code, it will be necessary to firstly determine the material date for the determination of the compensation. Mr. Zainuddin, the learned legal officer of the State Attorney General's Chambers appearing for the respondent, submitted that the relevant date for the determination of the market value of the subject lands ("the material date") must be the date of the publication of the s. 47 notice, namely May 1986. However Mr. Tai Choi Yu, for the objectors, contended that the material date

for such determination should be 14 May 1998, being the date of the declaration under s. 48 as there has been a lapse of about twelve years between the two notifications.

In the Federal Court case of *Superintendent of Lands and Surveys, Fifth Division, Limbang v. Lim Teck Hoo & Anor* [1980] 1 MLJ 58, the facts shows that the notification under s. 47 of the Sarawak Land Code stating that the lands were likely to be required for public purposes was published on 13 March 1971. Subsequently four different declarations were made under s. 48 of the Land Code according to each stage of the resumption. It was held that the material date for determining the market value of the land in question is the date of the notification under s. 47. On the effect of the s. 47 notification Chang Min Tat FJ stated, at p. 62, as follows:

> Section 47 read with section 60(1)(a), on a proper construction, has the effect of freezing the valuation of the land intended to be resumed by the Government at the date of the publication of the resolution passed by the Governor in Counsel that the land in question is likely to be needed for the purposes specified in section 46.

Similarly in the case of *Ngu Toh Tung & Ors v. Superintentent of Lands and Surveys & Anor* [2000] 4 MLJ 552, the High Court in Kuching was faced with the same issue of determining the relevant date of assessing the compensation to be awarded for the resumption of land under the Land Code. In that case the respondent had issued the s. 47 notice in respect of the respondent's land in 1973 while the declaration under s. 48 was only published on 14 November 1996. There being a delay of 23 1/2 years between the two relevant dates. His lordship Ian Chin J stated that he was bound to follow the decision of *Superintendent of Lands and Surveys, Fifth Division, Limbang v. Lim Teck Hoo & Anor*, and held that the relevant date for valuation should be the date of the publication of the s. 47 notice.

Following the aforesaid authorities, particularly *Superintendent of Lands and Surveys, Fifth Division, Limbang v. Lim Teck Hoo & Anor*, to which I am bound to follow, I hold that the relevant date for determining the market value of the subject lands should be 15 May 1986, being the date of the publication of the s. 47 notice.

It is also well established that in cases of objection to the award of compensation for the resumption of land the onus lies upon the objector to satisfy the court by evidence that the award of the Superintendent is inadequate. In *Superintendent of Lands and Surveys, Sarawak v. Aik Hoe & Co. Ltd* [1966] 1 MLJ 243 Hashim Yeop A. Sani J (as he then was) cited with approval the following observation made by Broomfield J in *Assistant Development Officer, Bombay v. Tayaballi Alliboy Bohori* AIR [1933] Bomb. 361:

> The party claiming enhanced compensation is more or less in the position of a plaintiff and must produce evidence to show that the award is inadequate. If he has no evidence the award must stand, and if he succeeds in showing *prima facie* that the award is inadequate, then the Government must support the award by producing evidence.

The observation was re-stated in the Privy Council case of *Collector of Land Revenue v. Allagappa Chettiar, Collector of Land Revenue v. Ong Thye Eng* [1971] 1 MLJ 43 where Lord Diplock stated as follows:

> The onus lies upon the applicant to satisfy the court by evidence that the amount of compensation awarded is inadequate; and the collector is entitled to call evidence in support of the amount awarded. His evidence is not confined to supporting the award upon the grounds stated in the notice of reference. He may amplify them or justify the amount awarded on other grounds.

Having considered the material date for the determination of the market value of the subject lands and the party who bears the burden of proving the inadequacy of the award I will now consider the objections raised one by one.

The Market Value Of The Subject Lands

At the conclusion of the inquiry under s. 51 of the Land Code the Superintendant awarded the sum of RM82,400 and RM198,000 as the market value of Lot 1459 and 1450 respectively, being calculated at the rate of RM40 per square metre. The objectors are claiming the sum of RM288,400 (at the rate of RM140 per square metre) in respect of Lot 1459 and RM742,500 (at the rate of RM150 per square metre) in respect of Lot 1450.

On the principle of valuation, it is clear that the Land Code only provide for matters to be considered and disregarded in the determination of compensation but make no provisions relating to the method of valuation. However the principles to be applied have been laid down from time to time by the court. In the Federal Court case of *Superintendent of Lands and Surveys Sarawak v. Aik Hoe* [1966] 1 MLJ 243 Suffian J (as he then was), cited with approval the following passage by Buhagiar J in *Nanyang Manufacturing Co. v. Collector of Land Revenue, Johore* [1954] MLJ 69:

> ... estimates (of value by experts) are undoubtedly some evidence but their value is not great, as expert opinion is liable to err, unless it is supported by, or coincides with, other evidence ... I consider that the safest guide to determine the fair market value is evidence of sales of the same land or similar land in the neighbourhood, after making due allowance for all the circumstances.

The principle was further clarified by Gill J in *Chuah Say Hai & Ors v. Collector of Land Revenue, Kuala Lumpur* [1967] 2 MLJ 99 where he stated at p. 99:

> ... where the land acquired was purchased by the owner within reasonable time of its compulsory acquisition, the price paid affords infinitely the best material for calculating its market value, the reason being that the elements of dissimilarity will be least present when the transaction sought to be applied is a previous purchase of the same property. ... Where there has been no recent sale of the same land, only sale within a reasonable period of lands of more or less similarly situated in the same neighbourhood, and possessing similar advantages are helpful in determining the market value of any land. As no two lands can be precisely similar in all their circumstances and conditions, a suitable allowance can be made of any difference. ...

In *Ng Tiou Hong v. Collector of Land Revenue, Gombak* [1984] 2 MLJ 35, the Federal Court also outlined the main principles that have to be applied according to the facts and circumstances of a particular case and one of such principle is that potentialities or possibilities must be taken into account.

In the present case since there has been no recent sale of the subject lands the safest guide to determine the fair market value thereof are sale within reasonable time of more or less similar land in the same vicinity and possessing similar advantages. Both the objectors and the respondent submitted their valuation report prepared by their respective valuers.

They both adopted the comparison method by evaluating the sale of the various comparable specified in their respective reports. PW1, the objectors' valuer, in para 1.3 of his valuation report dated 29 March 2001 (exh "A") stated that 'the material date of valuation is the date of imposition of s. 48 of Land Code, that is, as at 14 May 1998'. He further stated at para. 3.2 of the report as follows:

> We have investigated the record for evidence of similar properties which have been transacted in the immediate locality as and at around the material date of valuation ...

From the above extract of the report I will at once say that, based on my earlier finding on the material date for the determination of the market value, the objectors' valuer PW1 had erred in law in taking the date of the s. 48 declaration as the material date. It is not surprising that all the nine lots used as comparables in his report relate to sale of land between the period from January 1998 to December 1999 which is about twelve years later than the date of the s. 47 notice, 15 May 1986. Since there was a long lapse of time between the material date and the dates when these comparables were transacted I may reject all the comparables set out in exh "A" on this ground alone.

Apart from the time factor there are also other grounds for rejecting these comparables. First, it is not disputed that Lot 811, Lot 3210 and Lot 240 (comparables 1, 2 and 3 respectively) are all located within or adjacent to residential area and are first layer lot fronting a main road. Lot 240 is in fact fronting the Miri-Lutong trunk road. In contrast the subject Lot 1450 is a third layer lot without any access road while Lot 1459 is a second layer lot with only a small frontage to a road reserve. They are not situated adjacent to or within the immediate vicinity of any residential area.

I am also of the view that the comparables, except Lot 2937 (comparable 7), are also not suitable as these lots are also first layer lots with road frontage even though the lots are not located within the immediate vicinity of subdivided housing lots. Further none of these comparables are sufficiently described in the report especially on the terrain and other physical features to enable the court to make a finding as to their suitability as comparable to the subject lands. Lot 2937, although a second layer lot is only separated by one lot to the subdivided housing lots in the immediate locality.

For the reasons stated in relation to each of these comparables, together with the long lapse of time between the related transaction and the material date, I am unable to accept any of them for the purpose of determining the market value of the subject lands at the material date. It is therefore my finding that the objectors have failed to make out a *prima facie* case that the compensation awarded by the superintendent in respect of the subject lands was inadequate.

On the other hand the government valuer, Puan Haslinda Hamdan (DW1), prepared a valuation report as to the fair market value of the subject lands both at the date of the s. 47 notice and the s. 48 declaration. After evaluating the various comparables applicable to the two relevant dates, she arrived at the following market value:

Lot	*value as at 15.5.1986 (section 47 notification)*	*value as at 14.5.1998 (section 48 declaration)*
Lot 1459	RM37,080.00 or RM18.00 p.s.m.	RM82,400.00 or RM40.00 p.s.m
Lot 1450	RM89,100.00 or RM18.00 p.s.m	RM198,000.00 or RM40.00 p.s.m

In determining the value as at 15 May 1986, DW1 considered the transaction of ten comparables which were transacted between the period beginning from September 1982 to May 1986. Having scrutinised the relevant comparables I am of the view that comparables 6, 7, 8 and 10 in Appendix B of the report (and delineated green in the map attached thereto) are the most suitable comparables as these lots are situated in the same locality and were transacted less than a year before the material date. However comparable 6 and 7 are

smaller in size while comparable 8 and 10 have direct access onto Jalan Riam. All these factors will undoubtedly give the four lots higher values compared to the subject lands. Even with the added advantages these lots were only transacted in the range of RM11.62 per square metre to RM21.50 per square metre. Having considered these four comparables and the opinion of the two assessors, in my judgment the market value of the subject lands is at the most RM20 per square metre at the material date. In my opinion the award made by the Superintendent at RM40 per square metre, based on the market value as at 14 May 1998 as recommended by the government valuer, is well above the fair market value thereof at the material date.

I also find it necessary to note that at the submission stage, after the parties have closed their respective case, the learned counsel for the objectors submitted together with his written submission a final submission prepared by PW1, the objectors' valuer, making further analysis on the comparable adopted in both the government valuer's and his reports. In my view such final submission is still considered as an opinion of expert which should be adduced in court during the trial to subject the same to further cross-examination by the respondent. For the reason stated I did not give any weight thereto. Further I also find such final submission to be irrelevant as all the analysis made are based on the date of the s. 48 declaration.

Objection On Measurement In Linear And Volumetric Terms And On Vegetation

M. Tai Choi Yu pointed out that the objection under this heading relate firstly to the value of the earth, in linear volumetric terms, acquired or taken away from the subject lands; and secondly to the damages on severance which I will consider separately.

To support their claim on the volumes of the earth acquired, the objectors called a trained surveyor, PW2, to give evidence thereon. PW2 testified that he conducted the topographical survey of the subject lands on 15 October 2001 and prepared the survey report as in exh "C". According to him the volume of the earth that can be removed from the subject lands to bring the land to the accepted level of 8m contour line is 12,584 cubic metres. In cross-examination he however agreed that the hilly part of the subject land is still there. On this point Mr. Tai Choi Yu argued that if the subject lands were not resumed the objectors can either utilise the said volume of earth to fill the other part of the lands or apply for a license for their extraction and removal. Based on the quotation for the supply of earth at RM60 per trip (see exh "C"), the learned counsel arrived at a figure of RM144,062.23 on the claim for the earth in volumetric terms.

In my opinion the claim so made is misconceived and unsustainable on two grounds. Firstly it is obvious to me that the earth in question constitute and formed part of the land itself. When a piece of land is resumed it must necessarily include the resumption of the earth which constitute the land. Any award of compensation made in respect of the subject lands will naturally include compensation for the earth which formed its constituent part. Secondly it is beyond any doubt that the value of the earth in volumetric terms as claimed are not matters to be considered for the purpose of s. 60(1) of the Land Code.

Compensation For Severance

Compensation for severance relates to the damage sustained by the person interested at the time of the resumption by reason of severing such land from his other land. The measurement of compensation for damages to the land not taken by reason of severance or other injurious affection is the extent to which it has depreciated in market value (see *Halsbury's Law of England* (4th edn.) vol 8 para 320).

On this issue, Mr. Tai Choi Yu drew the court's attention to p. 7 of the objectors' valuation report (exh A) which read as follows:

> The effect of the acquisition has thus reduced the size of the land considerably, particularly, Lot 1450. The remaining area of Lot 1450, which is now held under Lot 4631 Block 1, Lambir Land District, has a land area of about 5,324 square metres, more or less. Similarly, the remaining area of Lot 1459, which is now held under Lot 4629 Block 1 Lambir Land District, has a land area of 6,681 square metres.
>
> The road alignment has cut the subject land, Lot 1450, almost into halves with the remaining lot having a triangular in shape. There is thus a lot of wastage of land from the three corners of the triangular shaped land, from the point of view of carrying out any development proposal, particularly residential.

Apart from the statement made by their valuer on the shape and size of the remaining portion of the subject lands, there is no explanation given or analysis made by him with respect to the damages resulting from such severance. It is therefore my finding that the claim of compensation on severance at 8% of the market value of the subject lands is made arbitrarily and not supported by any opinion expressed by expert.

The only evidence given to support the claim for compensation on severance is that he is planning to develop the land. However it is to be noted that the subject lands are subject to the express condition that they are "to be used only for agricultural purpose". No evidence was led before the court that an

agricultural land of triangular in shape cannot be developed to the optimum for such use. However if the objectors have proposed to develop the land for residential or other similar purpose then the court is prevented by s. 60(2) of the Land Code to take into account the potential value of the subject lands for such higher or more intensive use.

Having considered the above factors, including the area of the remaining portion and the express condition imposed on the subject land, I am not satisfied that the objectors have adduced sufficient evidence to support their claim for severance.

Compensation For Injurious Affection

The claim for injurious affection was only made by the second objector (PW3) in general terms when he gave evidence in support of his objection herein. His claim which in my opinion merit consideration are firstly the damages to fruit trees, loss of well for pumping water, and loss of actual earning.

On the claim for damages for the loss of fruit trees, I am satisfied from the statutory statement of the Superintendent that the objectors have been adequately compensated in respect thereof. It is clear from para. 1.2 of the 3 relevant statements that the Superintendent has directed his mind to the various crops stated therein in making the award at the inquiry. In the statement he also is clarified that the fruit trees and coconut trees were assessed according to the standard rate recommended by Director of Lands and Survey and approved by the Minister of Planning and Resource Management. The objectors however have not produced any satisfactory evidence to show that the compensation so paid was inadequate. I am also of the view that once adequate compensation has been paid for the fruit trees it is not open for the objectors to further claim for the continuous loss of income therefrom.

It is also my finding that the second objector apart from making a general assertion has also failed to show any evidence to substantiate the claim on the loss of earning from poultry farming and animal husbandry. After all only part of the subject lands were resumed and there is nothing to prevent the objectors from carrying out their farming activity on the remaining portion of the subject lands. As regard the claim for injurious affection resulting from flood, landslide, sulphuric acid rain and diminution of their quality of life suffice for me to say that such claims were mere assertion and not substantiated by any material fact.

Having regard to all the evidence before the court and considered the opinion of the two assessors which I have recorded in writing, I do not consider the amount of compensation awarded by the superintendant in respect of the

acquired portion of Lot 1459 and Lot 1450 to be inadequate. It is also my considered view that the objectors have failed to prove to the satisfaction of the court that they are entitled to the other objection raised including compensation for severance and injurious affection.

For all the reasons stated above I uphold the compensation awarded by the Superintendent at the rate of RM40 per square metre for both the subject lands or RM198,709.50 for Lot 1450 and RM83,030 for Lots 1459. I also make no award in respect of the other objections referred by the objectors herein. The objectors are also ordered to pay the costs of these references and to pay each of the assessor at the rate of RM25 per day for each day or part thereof that they were required to appear in court in relation to these references.